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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,539	09/19/2003	Robert Berghash	20705.0 (Berghash et al.)	5912
1342	7590	03/08/2005	EXAMINER	
PHILLIPS LYTTLE LLP INTELLECTUAL PROPERTY GROUP 3400 HSBC CENTER BUFFALO, NY 14203-3509			ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,539

Applicant(s)

BERGHASH ET AL

Examiner

Mitra Aryanpour

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Tyler (60,438,745).

Regarding claim 1, Tyler discloses a flexible hockey shield (hand protector 10) for use with a hockey stick (12) having a convex outer surface (outer protective sleeve 20) and a concave inner surface (the interior portion of outer protective sleeve 20) configured to shield all or part of a hand (see figure 2), an opening (opening at distal end 28) configured to accommodate a portion of a hockey stick (the shaft portion) that may be passed therethrough; and an interior grip portion (cylindrical inner sleeve member 14) connected to said shield portion and extending away from said shield portion and configured so as to slidably embrace said hockey stick (see figure 2). It should be noted that applicant has not positively recited "a hockey stick". Therefore, the claim as presented does not require the inclusion of a hockey stick, only that it be capable of use with one.

Regarding claim 2, Tyler shows the interior grip portion (14) extends away from the perimeter of said opening (see figure 2).

Regarding claim 3, Tyler shows the interior grip portion (14 comprises a plurality of generally parallel flexible tabs (the broadest reasonable interpretation of tabs would include inner sleeve 14' which tightly engages the stick 12).

Regarding claim 4, Tyler shows the opening (opening at 28) is generally rectangular (see figure 1).

Regarding claims 5 and 6, Tyler shows the opening is configured so as to accommodate multiple cross-sectional configurations of said hockey stick (see paragraph 0012; also see figures 1 and 3).

Regarding claim 7, Tyler shows the hand shield is adapted for use with a hockey stick (12) or any other sports or non-sports implement (see paragraph 0009); the stick having a fixed butt end, wherein the perimeter of the opening is configured such that said hockey stick may be passed through said opening (see figure 2).

Regarding claim 8, Tyler shows the opening (opening at 28) is flexible (the inner sleeve 20 and the outer protective sleeve 20 are made some polymeric material, it should be noted that the forward end of the inner sleeve 14 and the distal end of the outer protective sleeve 20 is formed as a unitary structure).

Regarding claim 9, Tyler shows the hand shield (10) comprises a hockey stick (12).

Regarding claim 10, Tyler additionally shows the hockey stick (12) comprise a shaft and a blade (although not shown, but clearly understood that the hockey stick has a shaft and a blade).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tyler (US2004/0138012A1).
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA

01 March 2005



MITRA ARYANPOUR
PRIMARY EXAMINER